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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,517	10/24/2003	Bernard J. Patsky	UTL 03-032	9868
7590                    04/13/2007		EXAMINER		
JAMES F. BAIRD, ESQUIRE 33 East Main Street P.O. Box 574 West Brookfield, MA 01585-0574		BLAU, STEPHEN LUTHER		
		ART UNIT	PAPER NUMBER	
		3711		

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/692,517	PATSKY, BERNARD J.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Stephen L. Blau	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 February 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 1-2, 6-16 and 18-24 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 3-5, 17 and 25 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 3 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan in view of Duclos, Jessen and Kobayashi.

Ryan discloses a golf club with an alignment line which takes into account downward bowing of a shaft and a golfer's visual parallax error (abstract, Col. 1, Lns. 19-25, 29-35), sweet spot markings, a marking extending from a point at the intersection of the face surface and the top surface (Fig. 5), a reference line on a drawing showing non-corrected target lines and corrected lines (Figs. 2, 3, 5), and a bending correction being dependant on the composition of a shaft and the speed of a golfer's swing (Col. 3, Lns. 40-50). Ryan does not disclose have markings on a head for a non-corrected target marking but clearly an artisan skilled in assisting a golfer in aligning a club to a ball would have selected a suitable marking arrangement in which having both the non-corrected marking and a corrected marking as shown by the reference lines in figures 2-3 and 5 is included.

Ryan lacks a grip, balance point target line markings, a line extending from a point at the intersection of the face surface and the top surface, a line across a top surface ending at a point at

the intersection of the top surface with the bottom surface, and an corrected alignment line with takes into account only a golfer's visual parallax error.

Duclos discloses corrected alignment markings to a sweet spot which only take into account a golfer's visual parallax error for a wood type club (Col. 1, Lns. 17-52, Col. 2, Lns. 3-5, Col. 3, Lns. 37-50, Col. 4, Lns. 14-35). In view of the patent of Duclos it would have been obvious to modify the club of Ryan to have a corrected alignment marking to a sweet spot which only takes into account a golfer's visual parallax error and not shaft bending in order to provide a club to a player with a swing strength which places very little or no bow on shaft either due to the stiffness of the shaft and/or the weakness of a player and in order to minimize the fitting process of a club to a player by only focusing on the visual error of a club and not the error induced by the bending of a shaft.

Jessen discloses a golf club having a grip (Fig. 2), an alignment marking (Ref. No. 15, Col. 2, Lns. 20-28) being in the form of a broad line on a top surface (Fig. 6) extending from a point at the intersection of the face surface and the top surface and a line on a head showing non-corrected target line (Fig. 6). In view of the patent of Jessen it would have been obvious to modify the golf club of Ryan to have a grip in order to minimize the vibrations felt by a player. In view of the patent of Jessen it would have been obvious to modify the golf club of Ryan to have lines on a top surface ending at a back end of a top surface showing a corrected target line in order to utilize a parallax corrected line instead of an arrow marking to assist a player in properly aiming a head who prefers a line while playing a round of golf.

Kobayashi discloses a head having a top surface intersection in a rear of a head with a bottom surface (Fig. 2) and center of gravity located behind a sweet spot such that a head is able

to be balanced at the sweet spot (Col. 2, Lns. 44-53) in order to increase distance of flight of a ball with improved directing performance (Col. 2, Lns. 59-62). In view of the patent of Kobayashi it would have been obvious to modify the head of Ryan to have a top surface intersect with a bottom surface in order to use the advantages of parallax correction for an alignment of a club for a head which has a bottom surface which intersects with a top surface at a rear end. As such a line on a top surface would end at a point at the intersection of the top surface with the bottom surface. In view of the patent of Kobayashi it would have been obvious to modify the head of Ryan to have a center of gravity located behind a sweet spot such that the sweet spot is able to be a balance point in order to increase distance of flight of a ball with improved directing performance.

3. Claims 4-5 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan in view of Duclos, Jessen, Kobayashi, and Elkins.

Ryan discloses a golf club with an alignment line which takes into account downward bowing of a shaft and a golfer's visual parallax error (abstract, Col. 1, Lns. 19-25, 29-35), sweet spot markings, a marking extending from a point at the intersection of the face surface and the top surface (Fig. 5), a reference line on a drawing showing non-corrected target lines and corrected lines (Figs. 2, 3, 5), and a bending correction being dependant on the composition of a shaft and the speed of a golfer's swing (Col. 3, Lns. 40-50).

Ryan lacks a grip, balance point target line markings, a line extending from a point at the intersection of the face surface and the top surface, lines on a head showing non-corrected target lines and corrected lines, an increased width line on a top surface ending at a point at the

intersection of the top surface with the bottom surface, an corrected alignment line with takes into account only a golfer's visual parallax error, and a face line on a top surface a predetermined distance from the face.

Duclos discloses corrected alignment markings to a sweet spot which only take into account a golfer's visual parallax error for a wood type club (Col. 1, Lns. 17-52, Col. 2, Lns. 3-5, Col. 3, Lns. 37-50, Col. 4, Lns. 14-35). In view of the patent of Duclos it would have been obvious to modify the club of Ryan to have a corrected alignment marking to a sweet spot which only takes into account a golfer's visual parallax error and not shaft bending in order to provide a club to a player with a swing strength which places very little or no bow on shaft either due to the stiffness of the shaft and/or the weakness of a player and in order to minimize the fitting process of a club to a player by only focusing on the visual error of a club and not the error induced by the bending of a shaft.

Jessen discloses a golf club having a grip (Fig. 2), an alignment marking (Ref. No. 15, Col. 2, Lns. 20-28) being in the form of a broad line on a top surface (Fig. 6) extending from a point at the intersection of the face surface and the top surface and a line on a head showing non-corrected target line (Fig. 6). In view of the patent of Jessen it would have been obvious to modify the golf club of Ryan to have a grip in order to minimize the vibrations felt by a player. In view of the patent of Jessen it would have been obvious to modify the golf club of Ryan to have increased width lines on a top surface ending at a back end of a top surface showing a corrected target line in order to utilize a parallax corrected line instead of an arrow marking to assist a player in properly aiming a head who prefers a line while playing a round of golf.

Kobayashi discloses a head having a top surface intersection in a rear of a head with a bottom surface (Fig. 2) and center of gravity located behind a sweet spot such that a head is able to be balanced at the sweet spot (Col. 2, Lns. 44-53) in order to increase distance of flight of a ball with improved directing performance (Col. 2, Lns. 59-62). In view of the patent of Kobayashi it would have been obvious to modify the head of Ryan to have a top surface intersect with a bottom surface in order to use the advantages of parallax correction for an alignment of a club for a head which has a bottom surface which intersects with a top surface at a rear end. As such a line on a top surface would end at a point at the intersection of the top surface with the bottom surface. In view of the patent of Kobayashi it would have been obvious to modify the head of Ryan to have a center of gravity located behind a sweet spot such that the sweet spot is able to be a balance point in order to increase distance of flight of a ball with improved directing performance.

Jessen discloses a non-parallax corrected target line (Fig. 6). Ryan in view of Jessen would be obvious to disclose a parallax corrected target line. Ryan discloses a reference line on a drawing showing non-corrected target lines and corrected lines (Figs. 2, 3, 5). Elkins discloses a corrected target line (105) being together with an uncorrected target line (115-116) (Fig. 3) as well as corrected target lines (105b, 115a, 116a) being without any uncorrected target lines (Fig. 5). In view of the patents of Jessen and Elkins it would have been obvious to modify head of Ryan to have both lines on a head showing a non-corrected target line and a corrected target line in order to assist a teacher in showing a player or assist a golf club manufacturer in showing a potential golf club buyer how severe a ball is misaligned from a sweet spot by not having a parallax correction alignment marking and the need to have a parallax corrected alignment.

In addition, Elkins discloses a face line (150) in addition to a corrected target line (105) and non-corrected target lines (157-158) on a top surface a predetermined distance from the face (Fig. 6) in order to assist players who customarily used the front face to line up a club who now can use the face line (Col. 7, Lns. 4-22). In view of the patent of Elkins it would have been obvious to modify head of Ryan to have a face line on a top surface a predetermined distance from the face in order to assist players who customarily used the front face to line up a club.

With respect to claims 4-5 and 17, very little weight is given to the method steps of how the parallax corrected target line is made on the head since this is an apparatus claim and not a method claim. Weight is give to what an apparatus is and not how it is made. The club due to the combination of the teachings of Ryan in view of Duclos, Jessen and Kobayashi is the same product as that claimed in claims 4-5 and 17.

#### *Response to Arguments*

4. The examiner failed to comment on claim 25 in the previous Office Action. As such claim 25 has been commented on in this Office Action and this action is not made final. The argument that it is improper to use the reference of Jessen due to Jessen does not disclosing the club is for actual play with a golf ball but in combination with a puck is disagreed with. Jessen clearly states that this apparatus is a club (Col. 2, Lns. 4-6) for golf instruction (Title). Clearly golf is played with a ball and clearly it is well known as shown in the prior art in this application that alignment aids are used on golf clubs used to hit balls. One skilled in the art would easily see it obvious to use alignment aids on training golf clubs for alignment aids for golf clubs which

are used to hit golf balls. The alignment aids for training clubs and actually clubs have the same exact purpose of assisting a player to align and accurately hit an object. The argument that it is improper to use the reference of Elkins since Elkins is used for a putter and not a wood or iron is disagreed with. All clubs benefit by having alignment aids for a golfer and all types of clubs have alignment devices on the top surface of a head. As such one skilled in the art would look at alignment devices on all types of heads to determine what is known in the art with respect to alignment devices on top of heads and see these alignment aids as transferable between clubs. The argument that the rejection is improper due to Ryan lacking any suggestion that the reference should be modified is disagreed with. One skilled in the art brings knowledge and experience when evaluating prior art. The examiner believes the modifications made to Ryan are obvious modifications to one skilled in the art and provided motivations as why the examiner believed so. The argument that if it was obvious than implementation would have been done by now for the claimed invention is disagreed with. All these features are implemented just not in one head. The argument that the references do not teach what the examiner relied upon as it teaching is disagreed with (See arguments above). The argument that the examiner strained the interpretation of Ryan and used hindsight is disagreed with. Without the shaft bow induced sighting error Ryan teaches parallax correction to the center of the face. It is very obvious to have the balance point behind the center of the face. Ryan was improving aligning of clubs by adding parallax correction with shaft bow correction. Clearly to go back and only have parallax by only removing the improvement that Ryan suggests is obvious.

*Conclusion*

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen L. Blau whose telephone number is (571) 272-4406.

The examiner can normally be reached on Mon - Fri 10:00 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

6 April 2007



STEPHEN BLAU  
PRIMARY EXAMINER